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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of



**DECISION**  
Case #: FOO - 206580

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on October 17, 2022, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on November 30, 2022, by telephone.

The issue for determination is whether

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: S. Neal

Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On 5/26/22 the Department of Health Services Office of Inspector General determined that petitioner may have self-employment income that was not budgeted in the petitioner's FoodShare

- case. The Department informed the agency that the agency was to seek income verification from petitioner due to the questionable income budgeting.
3. On 5/27/22 the agency sent a formal written Notice of Proof Needed to petitioner. The notice required petitioner to send “most recently filed tax forms and schedules.” The deadline for the agency’s receipt of these documents was set at 6/6/22.
  4. The forms and schedules were not received by the agency by the deadline.
  5. On 6/7/22 the agency sent another formal written Notice of Proof Needed to petitioner. The notice required petitioner to send “most recently filed tax forms and schedules.” The deadline for the agency’s receipt of these documents was set at 6/16/22.
  6. On 6/17/22 the petitioner contacted the agency regarding submitted documents. The agency did not have a record of any submitted documents.
  7. On 6/20/22 the agency sent a formal written Notice of Proof Needed to petitioner. The notice required petitioner to send “most recently filed tax forms and schedules.” The deadline for the agency’s receipt of these documents was set at 6/27/22.
  8. Petitioner submitted a Schedule C from petitioner’s 2020 tax year. The petitioner did not send the complete tax return.
  9. On 6/24/22 the agency sent a formal written Notice of Proof Needed to petitioner. The notice required petitioner to send “most recently filed tax forms and schedules.” The deadline for the agency’s receipt of these documents was set at 7/7/22. This notice also sought a written or verbal statement of number of hours worked per month in [REDACTED]. The agency included a note on this request specified that the “entire tax packet for 2021 with Schedule C is required.”
  10. Petitioner contacted the agency by telephone on 6/27/22 to inform the agency that she had not filed a 2021 tax return. The agency instructed petitioner to complete a self-employment income report form (“SEIRF”).
  11. On 7/11/22 the agency sent a formal written Notice of Proof Needed to petitioner. The notice required petitioner to send income and expense information from [REDACTED]. The agency included a SEIRF for petitioner to report this information. This notice also sought a written or verbal statement of number of hours worked per month in [REDACTED]. The agency included a form petitioner could use to report this time. The deadline for the agency’s receipt of these documents was set at 7/18/22.
  12. The agency closed the FS case as of 9/1/22 due to no verification being received by the due date.
  13. Petitioner sent SEIRF to agency and it was received in agency on 10/17/22.

### DISCUSSION

The issue for this case is whether the petitioner failed to verify information requested by the county agency under FS rules and policy. When dealing with the issue of the provision of information by a FS household, there is a clearly delineated process and a case may not be denied or discontinued unless those procedures are followed. That process is to specify in writing, what information is needed, and that the client has no less than a specific period of time in which to provide it. Generally that period of time is 30 days. However, the agency is to allow no less than 10 days. Also, the agency is required to assist the client when the client runs into difficulty in obtaining the needed documents. (See 7 C.F.R. §273.2(c)) For FS, the specific requirements may be found at *FoodShare Wisconsin Handbook*, §1.2.1, which states in the parts relevant here, as follows:

1.2.1.2 Request for Verification

Requests for verification **MUST** be made in writing. Verbal requests are not acceptable and will not stand up in a fair hearing. Workers are required to give the customer notice regarding required verification, when it is due to the agency, and the consequences of not verifying timely.

Do not deny the FS group for failure to provide the required verification until the:

1. 11th day after requesting the verification, or
2. 31st day of the application or review processing period, whichever is later.

1.2.1.3 Responsibility for Verification

The applicant has primary responsibility for providing required verification and for resolving any discrepancies or questionable information. The local agency must assist the applicant in obtaining this verification providing the applicant has not refused to cooperate with the application process.

Here, the Department was justified in questioning income as the department had identified unreported income. The agency provided the petitioner with the requisite request for verification by sending to her address which remains her current address. The notice clearly stated that benefits could terminate for failure to provide the most recent tax return. It was not until June 27 that petitioner informed the agency that she had not filed a 2021 tax return, at which time the agency gave petitioner the alternative of filing a SEIRF. Petitioner was sent the form on July 11 and required the form to be completed and returned by July 18. Petitioner did not return the form by the deadline. The agency closed the FS case as a result of getting none of the verification despite numerous extensions. Even the SEIRF was not sent until October at which time FS was reopened. The agency, as administrators of public benefit programs funded by taxpayers, was right to seek to establish that the benefits were properly allotted.

Petitioner claimed that she partially complied by sending in her Schedule C from 2020. It does not matter. The Department did everything it should have done and did not commit any error. That it took petitioner nearly five months to submit the "most recently filed IRS tax forms and schedules" as clearly requested in the 5/27/22 notice, and many notices thereafter, is what caused this problem. That responsibility rests solely on petitioner.

**CONCLUSIONS OF LAW**

The Department did not err in terminating petitioner's FS effective September 1, 2022 based on her failure to provide verification.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

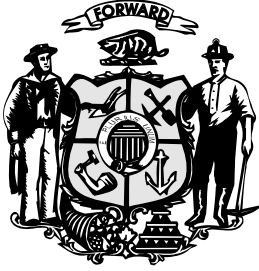
Given under my hand at the City of Madison,  
Wisconsin, this 17th day of January, 2023



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John P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 17, 2023.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability